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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,490	01/08/2001	Michael T.K. Ling	1417Y P 407	4232
7590	04/09/2004		EXAMINER	
Mark J. Buonaiuto, Esq. Assistant General Counsel Baxter International inc. One Baxter Parkway, DF2-2E Deerfield, IL 60015			NOLAN, SANDRA M	
			ART UNIT	PAPER NUMBER
			1772	
DATE MAILED: 04/09/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/756,490	LING ET AL.
Examiner	Art Unit	
Sandra M. Nolan	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 02 February 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-10 and 12-18 is/are pending in the application.
4a) Of the above claim(s) 6-10, 17 and 18 is/are withdrawn from consideration.

5) Claim(s) 1-5 and 12-16 is/are allowed.

6) Claim(s) _____ is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

2. Applicant's submission filed on 02 February 2004 has been entered.

Ex parte Quayle Action

3. This application is in condition for allowance except for the following formal matters:

Non-elected Claims

4. Non-elected claims 6-10 and 17-18 are still pending. Please cancel the non-elected claims.

Informalities in the Base Claim

5. The examiner notes the following informalities in claim 1, but has not made any objection/rejection based on them.

Claim 1, line 7, after "layer", the term – of – should appear.

Claim 1, line 12, after "alcohol" [first occurrence], the term – copolymers – should appear.

It is suggested that claim 1 would be more understandable if the suggested changes were made.

6. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

7. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Allowable Subject Matter

8. Claims 1-5 and 12-16 are allowed.

9. The following is an examiner's statement of reasons for allowance:

10. The sole base claim is claim 1. It can be summarized as follows:

Claim 1 covers multiple layered non-PVC tubing comprising:

-a first layer containing a blend of:

a) about 25 to 50% of a polyolefin selected from polypropylene and polypropylene copolymers,

b) 1 to 50% of a second polyolefin selected from: ethylene copolymers, ultra low density polyethylene, polybutene, polybutadiene and butene/ethylene copolymers,

c) 1 to 40% [of] a radio frequency susceptible polymer selected from: polyamides, ethylene/(meth)acrylic acid copolymers, polyimides, polyurethanes, polyesters, polyureas, ethylene/vinyl acetate copolymers (12 to 50% vinyl acetate content), ethylene/methyl acrylate copolymers (12 to 40% methyl acrylate content), ethylene/vinyl alcohol [copolymer] (12 to 70% vinyl alcohol content),

d) 1 to 40% of a first thermoplastic elastomer; and

- a second layer positioned coaxially with the first layer and being a second thermoplastic elastomer containing only styrene and diene units.

11. As applicants have pointed out on pages 6 and 7 of their 02 February 2004 response, none of the cited prior art teaches or suggests tubing having all of the features recited in claim 1.

12. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication should be directed to Sandra M. Nolan, whose telephone number is 571/272-1495. She can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time. If attempts to reach the examiner are unsuccessful, her supervisor, Harold Pyon, can be reached at 571/272-1498. The fax number for patent application documents is 703/872-9306.

S. M. Nolan
S. M. Nolan
Primary Examiner
Technology Center 1700

SMN/smn
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